THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 22421 of 2007

Dated: 25.10.2007

Between:

The Depot Manager,
A.P.S.R.T.C. Bus Depot Parkal,
District Warangal.

..... PETITIONER

AND

The Presiding Officer,
Industrial Tribunal-cum-Labour Court
at Waralgal and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 22421 of 2007

Order:

Assailing the award dated 12.02.2007, passed by the Labour Court, Warangal, in I.D. No. 71 of 2004, setting aside the removal order and directing the petitioner-Corporation to pay the service benefits to the 2nd respondent-workman from the date of suspension till the date of retirement, the petitioner-Corporation filed the present writ petition.

Learned Standing Counsel for the petitioner-Corporation mainly contends that the accident had occurred due to rash and negligent driving and lack of anticipation on the part of the 2nd respondent-workman, and so he is responsible for the alleged accident. He further contends that the Labour Court, without properly appreciating the entire material on record, erred in setting aside the removal order passed against the 2nd respondent-workman, hence, the impugned award is liable to be set aside.

Heard the learned Standing Counsel for the petitioner-Corporation and perused the award of the Labour Court.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the

evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned award of the Labour Court, is to be examined.

A perusal of the award of the Labour Court clearly shows that the 2nd respondent-workman, in his statement Ex.M.8, stated that a lorry was coming in opposite direction in high speed with full head lights having halogen bulbs, and though he has given dipper, the lorry driver did not give dipper nor slowed down the speed of the lorry, hence, he slowed down his vehicle and applied brakes, but due to defect of left side pulling of the bus, it went to the extreme left side of the road and dashed to an electric pole. He further stated that though he mentioned about the said defect in the log sheet, the same was not rectified by the depot authorities. But, the said log sheet was not produced before the labour Court. It further clearly shows that the petitioner-Corporation has not filed the statements of the crew and passengers nor examined the crucial witnesses to the accident or the staff, who attended the accident and drawn the rough sketch. The Labour Court, on considering the said circumstances and on re-appreciation of evidence, and also considering the acquittal order passed against the 2nd respondent-workman in C.C. No. 188 of 2000, held that there is no negligence on the part of the 2nd respondent-workman and that the findings of the disciplinary authority against the 2nd respondent-workman are not based on any material evidence, and that the action of the petitioner-Corporation in imposing the stringent punishment of removal against the 2nd respondent-workman at the fag end of the service, was not justified. Holding so, the Labour Court, after taking into consideration the manner in which the accident had taken place and the acquittal order passed against the 2nd respondent-workman in C.C. No. 188 of 2000, exercised its discretion under Section 11-A of the Industrial Disputes Act, 1947, and while

setting aside the removal order modified the punishment to that of directing the petitioner-Corporation to pay the service benefits to the 2nd respondent-workman from the date of suspension till the date of retirement, and I see no reasons to interfere with the same.

The award of the Labour Court, judged from the parameters of certiorari jurisdiction of this Court under Article 226 of the Constitution of India, does not call for interference, for the petitioner-Corporation failed to point out any infirmities.

The writ petition is devoid of merit and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 25.10.2007
Nsr